



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

January 15, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim McCotter, Owner
Deer Haven Lodge
P.O. Box 86
Ten Sleep, Wyoming 82442

Re: Administrative Order
Docket No. **SDWA-08-2004-0012**
Deer Haven Lodge
PWS ID #5600565

Dear Mr. McCotter:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. and its implementing regulations. Among other things, the Administrative Order finds that Deer Haven Lodge is a public water supplier as defined by the SDWA and that the District has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.21, 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to monitor for total coliform bacteria; failure to perform repeat monitoring for bacteriological quality; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If Deer Haven Lodge complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the District to comply.

Among other things, the Order calls for you to provide a public notification for certain monitoring requirements that were not met. For your convenience, we have enclosed some template



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forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Jackson Naftel of EPA, whose telephone number is provided below.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Jackson Naftel at the address on the letterhead, including the mailcode 8ENF-W, or you may call Mr. Naftel at (800)227-8917, extension 6362, or (303) 312-6362. If you wish to have an informal conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney please feel free to have your attorney call Peggy Livingston, Enforcement Attorney, at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
Public Notice Template
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH
Gail Laurent, Big Horn National Forest



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>**

January 15, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Washakie County Commissioner
c/o William Glanz, Chair
PO Box 260
Worland, Wyoming 82401

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Deer Haven Lodge
PWS ID #WY5600565

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Deer Haven Lodge, located in Washakie County, WY. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.23(d), 141.21, 141.21(b)(5), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to monitor for total coliform bacteria; failure to perform repeat monitoring for bacteriological quality; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Jackson Naftel at (303) 312-6362.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

<u>IN THE MATTER OF</u>)	
Jim McCotter, Owner)	
Deer Haven Lodge)	
Ten Sleep, Wyoming)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No.
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act or SDWA), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Jim McCotter (Respondent) is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, Deer Haven Lodge Water System (the System), located in Washakie



County, Wyoming for the provision to the public of piped water for human consumption.

3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. §300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 24, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by ground water consisting of two springs. The System serves approximately 50 persons daily, during its year-round operational season through 20 service connections.



FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL) as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

II.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter that the system is serving the public to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 1st (January-March) quarter in 2002 and 3rd (July-September) quarter in 2003, in violation of 40 C.F.R. § 141.21(a).

III.



1. 40 C.F.R. § 141.21(b) (5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive sample(s) to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in May 2003 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b) (5) .

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the MCL, maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I, II and III in violation of 40 C.F.R. § 141.201.

V.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the



violation to EPA within ten days after the system discovers the violation.

2. Respondent failed to report to EPA instances of noncompliance detailed in Sections II and III in violation of 40 C.F.R. § 141.21(g)(2).

V.

1. 40 C.F.R. § 141.31(b) requires that public water systems shall report any failure to comply with the NPDWRs to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of Violation Sections I and IV, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the annual nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the



month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive sample(s) in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. No later than thirty days from the date of this Order, Respondent must comply with the public notice



requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205. Specifically, Respondent must provide public notice of the failure to monitor for nitrate and the failure to monitor for contamination by total coliform bacteria in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers, use of E-mail to notify employees or students, or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of



completion of the public notice, as required by 40 C.F.R. § 141.31(d).

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

Jackson Naftel
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466



GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order, instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject Respondent to an administrative civil penalty of up to \$25,000 under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation, assessed by a U.S. District Court, under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation, assessed by an appropriate U.S.



District Court, under Section 1414(b) of the Act, 42
U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of
issuance of this Order.

Issued this 15TH day of January, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Dianne L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JANUARY 15, 2004.



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